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| APPLICATION NO | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO | CONFIRMATION NO |
|----------------|-------------|----------------------|--------------------|-----------------|
| 09 246,918 | 02 09 1999 | KARL M. ROBINSON | 303-455US2 | 6845 |

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MINNEAPOLIS, MN 55402

EXAMINER

FOURSON III, GEORGE R

| ART UNIT | PAPER NUMBER |
|----------|--------------|
|----------|--------------|

2823

DATE MAILED: 06 18 2002

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/246,918

Applicant(s)

ROBINSON, KARL M.

Examiner

George Fourson

Art Unit

2823

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 28 March 2002.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 2-6, 10-18, 29-38, 50-52, 76 and 77 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 2-6, 10-18, 29-33, 37, 38, 50-52, 76 and 77 is/are rejected.
- 7) ☒ Claim(s) 34-36 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 4.
- 4) ☐ Interview Summary (PTO-413) Paper No(s) _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

Newly filed claims 53 and 54 have been renumbered as claims 76 and 77 under 37 CFR 1.126.

Claims 51 and 52 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

There is no antecedent basis for "first metal layer" in claim 51.

Claim 52 is objected to under 37 CFR 1.75(c), as being of improper dependent form for failing to further limit the subject matter of a previous claim. Applicant is required to cancel the claim(s), or amend the claim(s) to place the claim(s) in proper dependent form, or rewrite the claim(s) in independent form.

Claim 50 requires the "conductive layer" to comprise polysilicon.

Claims 50,51,52,76 and 77 are rejected under 35 U.S.C. 112, first paragraph, as containing subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. There is no description in the specification as originally filed of forming a polysilicon layer over the capacitor dielectric. There is only see support for metal capacitor electrodes. There is no description in the specification as originally filed of forming the lower capacitor plate over an electrically isolated polysilicon structure. Applicant points to figures 1-4 for support. However, in those figures polysilicon layer 25 electrically contacts doped regions of the substrate.

The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

Claims 2-6,10,11,12-16,29-33,37 and 38 are rejected under 35 U.S.C. 103(a) as being unpatentable over Gaulier.

Gaulier is applied as stated to be applied in the rejection of claims 12-16,29-33,37 and 38 in the paper mailed 12/17/01. Also, the reference discloses that substrate 1 contains active and passive components and that other metals are used for capacitor plates that are anodized to form the capacitor dielectric (col.1, lines 20+).

Applicant does not address the taking of official notice taken in the statement of the rejection therein. Formation of the lower capacitor electrode on a patterned polysilicon layer is addressed in the rejection as stated in the office action mailed 12/17/01.

The examiner takes official notice that anodization of metals as recited in claim 5 to produce an oxide layer on the metal was known prior to applicant's invention. It would have been within the scope of one of ordinary skill in the art to combine the known processes with that of Gaulier to enable formation of the lower capacitor plate and capacitor dielectric of Gaulier.

Claims 17 and 18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Gaulier as applied to claims 2-4,6,10,11,12-16,29-33,37 and 38 above, and further in view of Dickey et al.

Dickey et al is applied as stated in the office action mailed 12/17/01 as providing suggestion to adjust the anodization current during the process.


Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry of a general nature or relating to the status of this application should be directed to the Group Receptionist whose telephone number is (703) 308-0956. See MPEP 203.08.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to examiner George Fourson whose telephone number is (703) 308-2544. The examiner can normally be reached on Monday through Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Wael Fahmy, can be reached on (703) 308-4918. The fax number for this group is (703)308-7722 (or extensions 7724, 3431 or 3432) for regular communications and (703)308-7282 for after final communications.


George Fourson
Primary Examiner
Art Unit 2823

GFourson
June 16, 2002